

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1299 be amended to read as follows:

- 1 Page 15, between lines 35 and 36, begin a new paragraph and insert:
- 2 "SECTION 8. IC 6-9-37 IS ADDED TO THE INDIANA CODE AS
- 3 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
- 4 PASSAGE]:
- 5 **Chapter 37. Lake County Food and Beverage Tax**
- 6 **Sec. 1. This chapter applies only to a county having a population**
- 7 **of more than four hundred thousand (400,000) but less than seven**
- 8 **hundred thousand (700,000).**
- 9 **Sec. 2. As used in this chapter, "authority" refers to a regional**
- 10 **transportation authority established under IC 36-9-3-2.**
- 11 **Sec. 3. As used in this chapter, "beverage" includes any**
- 12 **alcoholic beverage.**
- 13 **Sec. 4. As used in this chapter, "commuter transportation**
- 14 **district" refers to a commuter transportation district established**
- 15 **under IC 8-5-15.**
- 16 **Sec. 5. As used in this chapter, "food" includes any food**
- 17 **product.**
- 18 **Sec. 6. As used in this chapter, "fund" refers to a food and**
- 19 **beverage tax receipts fund established under this chapter.**
- 20 **Sec. 7. As used in this chapter, "gross retail income" has the**
- 21 **meaning set forth in IC 6-2.5-1-5.**
- 22 **Sec. 8. As used in this chapter, "person" has the meaning set**
- 23 **forth in IC 6-2.5-1-3.**
- 24 **Sec. 9. As used in this chapter, "retail merchant" has the**
- 25 **meaning set forth in IC 6-2.5-1-8.**

1       **Sec. 10. (a)** The fiscal body of a county may adopt an ordinance  
 2 to impose an excise tax, known as the regional transportation  
 3 authority food and beverage tax, on a transaction described in  
 4 section 11 of this chapter.

5       **(b)** If a fiscal body adopts an ordinance under subsection (a), it  
 6 shall immediately send a certified copy of the ordinance to the  
 7 commissioner of the department of state revenue.

8       **(c)** If a fiscal body adopts an ordinance under subsection (a), the  
 9 regional transportation authority food and beverage tax applies to  
 10 transactions that occur after the last day of the month that follows  
 11 the month in which the ordinance was adopted.

12       **Sec. 11. (a)** Except as provided in subsection (c), a tax imposed  
 13 under this chapter applies to any transaction in which food or  
 14 beverage is furnished, prepared, or served:

15       **(1)** for consumption at a location, or on equipment, provided  
 16 by a retail merchant;

17       **(2)** in the county in which the tax is imposed; and

18       **(3)** by a retail merchant for consideration.

19       **(b)** Transactions described in subsection (a)(1) include  
 20 transactions in which:

21       **(1)** food or beverage is served by a retail merchant off the  
 22 merchant's premises;

23       **(2)** food is sold in a heated state or heated by a retail  
 24 merchant;

25       **(3)** the food consists of two (2) or more food ingredients that  
 26 are mixed or combined by a retail merchant for sale as a  
 27 single item (other than food that is only cut, repackaged, or  
 28 pasteurized by the seller, and eggs, fish, meat, poultry, and  
 29 foods containing these raw animal foods requiring cooking by  
 30 the consumer as recommended by the federal Food and Drug  
 31 Administration in chapter 3, subpart 3-401.11 of its Food  
 32 Code so as to prevent food borne illnesses); or

33       **(4)** a retail merchant provides eating utensils, including plates,  
 34 knives, forks, spoons, glasses, cups, napkins, or straws, with  
 35 the food that is sold (for purposes of this subdivision, a plate  
 36 does not include a container or packaging used to transport  
 37 the food).

38       **(c)** A food and beverage tax imposed under this chapter does not  
 39 apply to furnishing, preparing, or serving any food or beverage in  
 40 a transaction:

41       **(1)** that is exempt; or

42       **(2)** to the extent the transaction is exempt;  
 43 from the state gross retail tax imposed under IC 6-2.5.

44       **Sec. 12.** The tax imposed on a transaction described in section  
 45 11 of this chapter equals one percent (1%) of the gross retail  
 46 income received by the merchant from the transaction.

1       **Sec. 13.** The tax that may be imposed under this chapter shall be  
 2 imposed, paid, and collected in the same manner that the state  
 3 gross retail tax is imposed, paid, and collected under IC 6-2.5.  
 4 However, the return to be filed for the payment of the tax may be  
 5 made on separate returns or may be combined with the return filed  
 6 for the payment of the state gross retail tax, as prescribed by the  
 7 department of state revenue.

8       **Sec. 14.** The treasurer of state shall pay monthly the amounts  
 9 received from the tax imposed under this chapter as follows upon  
 10 warrants issued by the auditor of state:

11       (1) The first one hundred fifty thousand dollars (\$150,000)  
 12 received in a state fiscal year shall be transferred to the  
 13 metropolitan transportation corridor commission for deposit  
 14 in the commission's metropolitan transportation corridor  
 15 fund. However, not more than four hundred fifty thousand  
 16 dollars (\$450,000) shall be transferred under this subdivision.

17       (2) Fifty percent (50%) of the amount received, after making  
 18 the transfer required under subdivision (1), shall be  
 19 transferred to the authority for deposit in the authority's food  
 20 and beverage tax receipts fund.

21       (3) Fifty percent (50%) of the amount received, after making  
 22 the transfer required under subdivision (1), shall be  
 23 transferred to the Lake County auditor for deposit in the  
 24 county's food and beverage tax receipts fund.

25       **Sec. 15. (a)** If a county imposes the tax under this chapter, the  
 26 authority that serves an area, including the county, shall establish  
 27 a food and beverage tax receipts fund.

28       (b) The authority shall deposit in the fund all amounts received  
 29 under this chapter.

30       (c) Any money earned from the investment of money in the fund  
 31 becomes a part of the fund.

32       (d) Money in the fund may be used only for purposes of the  
 33 authority.

34       **Sec. 16. (a)** If a county imposes the tax under this chapter, the  
 35 county shall establish a food and beverage tax receipts fund.

36       (b) The county auditor shall deposit in the fund all amounts  
 37 received under this chapter.

38       (c) Any money earned from the investment of money in the fund  
 39 becomes a part of the fund.

40       (d) Money in the fund may be used only for the financing,  
 41 constructing, acquiring, renovating, and equipping of a combined  
 42 convention center and sports facility located in the county south of  
 43 the cities bordering Lake Michigan at a location that has ready  
 44 access to Interstate 65.

45       SECTION 9. IC 8-22-3-4 IS AMENDED TO READ AS  
 46 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Except as

provided in subsections (b), (c), (d), (e), and (f), the board consists of four (4) members, whenever the fiscal body of an eligible entity, acting individually, establishes an authority. The members of the board shall be appointed by the executive of the entity, and not more than two (2) members of the board may be of the same political party.

(b) In the event that two (2) cities or one (1) city and one (1) town act jointly to establish an authority under this chapter, the board consists of five (5) members. The executive of each city or town shall each appoint two (2) members to the board. The county executive shall appoint one (1) member to the board. Each member appointed by an executive must be of a different political party than the other appointed member.

(c) In the event that an authority is established by a city or town and a county, acting jointly, the board consists of six (6) members. The executive of each entity shall appoint three (3) members. Not more than two (2) members appointed by each executive may be of the same political party.

(d) In the event that an authority was established under IC 19-6-3 (before its repeal on April 1, 1980) the board consists of five (5) members. Three (3) members of the board shall be appointed by the mayor of the city, and two (2) members of the board shall be appointed by the board of commissioners of the county. Not more than two (2) members representing the city may be members of the same political party, and not more than one (1) member representing the county may be a member of the same political party.

(e) Except as provided in section 4.1(b)(3) of this chapter, the county executive of each Indiana county that is adjacent to a county establishing an authority under this chapter and in which the authority owns real property may appoint one (1) advisory member to the board. An advisory member who is appointed under this subsection:

- (1) must be a resident of the adjacent county;
- (2) may not vote on any matter before the board;
- (3) serves at the pleasure of the appointing authority; and
- (4) serves without compensation or payment for expenses.

(f) The board of an authority established in a city that has a population of more than sixteen thousand six hundred (16,600) but less than seventeen thousand four hundred (17,400) consists of five (5) members. The members of the board shall be appointed by the executive of the eligible entity, and not more than three (3) members of the board may be of the same political party.

**(g) This subsection applies to an authority subject to this chapter that serves a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). In addition to the other members of a board, the governor shall appoint one (1) nonvoting member to the board.**

SECTION 10. IC 8-22-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The board

members shall be appointed as soon as possible after the adoption of an ordinance establishing an authority under this chapter. The term of each member starts at noon on the day the authority is established, at which time the board members shall meet and organize as the board.

(b) Members of the board shall be appointed as follows:

(1) One (1) member for an initial term of one (1) year, one (1) for an initial term of two (2) years, and if a third or fourth appointment is required, one (1) for an initial term of three (3) years and one (1) for an initial term of four (4) years. At the expiration of the respective terms, a member or members shall be appointed to fill the vacancies caused by the expiration. The members so appointed hold office for a term of four (4) years and until their successors are appointed and qualified.

(2) If the authority was established under IC 19-6-3 (before its repeal on April 1, 1980), at the expiration of the members' terms the mayor or the board of county commissioners shall appoint a member or members to fill the vacancies caused by the expiration. The members so appointed hold office for a term of three (3) years and until their successors are appointed and qualified. **However, the member appointed by the governor under this chapter serves at the pleasure of the governor.**

(c) If a vacancy occurs in the board by resignation or otherwise, a member shall be appointed for the remainder of the term.

(d) A board member is eligible for reappointment to successive terms.

(e) A board member may be impeached under the procedure provided for the impeachment of county officers.

SECTION 11. IC 8-22-3-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) Notwithstanding section 6 of this chapter, the board members of an authority established under section 1.1 of this chapter shall be appointed on or before June 15, 1985. The term of each member starts at noon on the day the authority is established, at which time the board members shall meet and organize as the board.

(b) Members of the board shall be appointed as follows: two (2) members for an initial term of one (1) year, two (2) members for an initial term of two (2) years, and two (2) members for an initial term of three (3) years. At the expiration of the respective terms, a member or members shall be appointed to fill the vacancies caused by the expiration. The members so appointed shall hold office for a term of four (4) years and until their successors are appointed and qualified. **However, the member appointed by the governor under this chapter serves at the pleasure of the governor.**

(c) If a vacancy occurs in the board by resignation or otherwise, a member shall be appointed for the remainder of the term.

(d) A board member is eligible for reappointment to successive terms.

(e) A board member may be impeached under the procedure provided for the impeachment of county officers.

SECTION 12. IC 8-22-3.7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The development board is composed of three (3) members, who must be residents of the eligible entity, **and one (1) nonvoting member appointed by the governor.** The members of a development board for a development authority established by an eligible entity described in section 4.5(1) of this chapter, **other than the member appointed by the governor,** are appointed by the executive of the eligible entity. The members of a development board for a development authority established by an eligible entity described in section 4.5(2) or 4.5(3) of this chapter, **other than the member appointed by the governor,** are appointed as follows:

- (1) One (1) member is appointed by the county executive.
- (2) One (1) member is appointed by the executive of the city with the largest population in the county.
- (3) One (1) member is appointed by the board of an airport authority that is located in the county.

(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms. **However, a member appointed by the governor serves at the pleasure of the governor.**

(c) If a vacancy occurs on the development board, the officer or entity that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A member may be removed for cause by the officer or entity that appointed the member.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(f) A member may not receive a salary, and no profit or money of the development authority inures to the benefit of a member.

SECTION 13. IC 36-7-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 34. Northwest Indiana Transportation, Infrastructure, and Economic Development Coordination Study Commission**

**Sec. 1. As used in this chapter, "commission" refers to the northwest Indiana transportation, infrastructure, and economic development coordination study commission established by section 2 of this chapter.**

**Sec. 2. The northwest Indiana transportation, infrastructure, and economic development coordination study commission is established.**

**Sec. 3. The commission consists of the following members:**

- (1) One (1) member appointed by the shoreline development

commission (IC 36-7-13.5-2).

(2) One (1) member appointed by an airport development authority established by an eligible entity described in IC 8-22-3.7-4.5(1).

(3) One (1) member appointed by a regional transportation authority established under IC 36-9-3-2 and serving the metropolitan district.

(4) One (1) member appointed by a commuter transportation district established under IC 8-5-15 and serving the metropolitan district.

(5) One (1) member appointed by the northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(6) One (1) member appointed by the county executive of Porter County.

(7) One (1) member appointed by the county executive of LaPorte County.

Sec. 4. Each member appointed to the commission serves at the pleasure of the appointing authority.

Sec. 5. Subject to this section, a member described in section 3(6) through 3(7) of this chapter is a nonvoting member. In any year for which the appointing authority contributes at least twenty-five thousand dollars (\$25,000) for the operation of the commission, the member appointed by the appointing authority shall be treated as a voting member for all actions taken by the commission after the minimum contribution is made.

Sec. 6. The member appointed under section 3(5) of this chapter shall convene the initial meeting of the commission.

Sec. 7. The commission may do the following:

(1) Hold public hearings.

(2) Request the presence and participation at a commission meeting of representatives of any governmental or private entity that has an interest in transportation, economic development, or infrastructure issued in the metropolitan district.

(3) Enter into contracts, within the limit of available funds, with individuals, organizations, and institutions for services that further the purposes of this chapter.

(4) Enter into contracts, within the limit of available funds, with local and regional nonprofit corporations and associations for cooperative endeavors that further the purposes of this chapter.

(5) Enter with governmental and private entities into cooperative agreements that further the purposes of this chapter.

(6) Receive appropriations of federal funds.

(7) Accept gifts, contributions, and bequests of funds from any

1 source.

2 (8) Apply for, receive, and disburse funds available from the  
3 state or federal government in furtherance of the purposes of  
4 this chapter, and enter into any agreements that may be  
5 required as a condition of obtaining the funds.

6 (9) Adopt bylaws, rules, and policies to carry out the  
7 commission's internal affairs.

8 (10) Perform any act that is necessary to carrying out the  
9 duties of the commission and the purposes of this chapter.

10 Sec. 8. The commission shall operate under the bylaws adopted  
11 by the commission to regulate its internal affairs.

12 Sec. 9. (a) The commission shall establish a metropolitan  
13 transportation corridor fund.

14 (b) The commission shall deposit in the fund all amounts  
15 received under this chapter.

16 (c) Any money earned from the investment of money in the fund  
17 becomes a part of the fund.

18 (d) Money in the fund may be used only for purposes of this  
19 chapter.

20 Sec. 10. The commission shall do the following:

21 (1) Review the planning, oversight, financing, and  
22 development of transportation services in northwest Indiana  
23 and recommend changes directed at:

24 (A) improving the service delivery for all citizens of the  
25 region;

26 (B) lowering long term costs; and

27 (C) consolidating organizational structures whenever  
28 possible.

29 (2) Review planned expansion of transportation infrastructure  
30 developments as to cost, scheduling, oversight, and authorities  
31 involved and recommend changes consistent with improving  
32 service delivery and economic development potential.

33 (3) Consider possible changes to economic development  
34 organizational structures and their financing across the region  
35 to facilitate economic growth and employment growth  
36 throughout northwest Indiana.

37 (4) Review other infrastructure development projects vital to  
38 northwest Indiana and how they may be facilitated.

39 Sec. 11. This chapter expires thirty-seven (37) months after the  
40 commission receives its first distribution of money under IC 6-9-35.  
41 Any unencumbered amount of money held by the commission  
42 when the commission terminates shall be transferred to the  
43 authority (as defined in IC 6-9-35-2) for use by the authority.

44 SECTION 14. [EFFECTIVE UPON PASSAGE] The general  
45 assembly finds that:

46 (1) the proximity of Lake County to the third largest

1           **population center in the United States; and**  
2           **(2) Lake County's location as the gateway between a highly**  
3           **populated northern corridor of Indiana counties and Illinois;**  
4           **presents unique transportation, economic development, and**  
5           **infrastructure challenges that require IC 6-9-37 and IC 36-7-34,**  
6           **both as added by this act."**

7           Renumber all SECTIONS consecutively.

(Reference is to HB 1299 as printed February 25, 2005.)

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Representative Aguilera